

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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| HODELL-NATCO INDUSTRIES, INC.,) | CASE NO. 1:08 CV 2755 |
|) | |
|) | JUDGE DONALD C. NUGENT |
| Plaintiff, |) |
|) | |
| v. |) |
|) | JUDGMENT |
| SAP AMERICA, INC and SAP AG, |) |
|) | |
| Defendants. |) |

The above-captioned case came before this Court for a trial by jury. At the conclusion of the trial, the Jury returned a unanimous Verdict in favor of Defendants SAP America and SAP AG on Plaintiff Hodell-Natco Industries' claim of fraudulent Inducement.

In its First Amended Complaint Plaintiff asserted claims of fraudulent inducement, fraud, breach of contract, negligence and negligent misrepresentation against Defendants SAP America, SAP AG, LSi-Lowery Systems, Inc ("LSi") and The IBIS Group, Inc. ("IBIS"). Judge Wells dismissed the negligence claim against the SAP defendants as well as the breach of contract claim against SAP AG. Judge Wells further granted summary judgment in favor of LSi and IBIS on Plaintiff's negligence claim. Judge Wells entered an Order of default against IBIS and LSi on February 12, 2015, pursuant to Fed. R. Civ. P. 55(a) and dismissed each of the LSi/IBIS cross-claims and counterclaims. Plaintiff and the SAP Defendants went to trial on the remaining claims of fraudulent inducement, fraud, breach of contract against SAP America relating to the License Agreement, and negligent misrepresentation.

The trial commenced on June 15, 2015. A Jury of twelve was duly impaneled and

sworn. Juror #2 was excused for personal reasons. Opening statements of counsel were made. Plaintiff called the following witness(es): (1) Kevin Riedl. Court was then adjourned until June 16, 2015 at 8:00 a.m.

The trial continued on June 16, 2015. Juror #5 was excused due to a medical issue. Plaintiff called the following witness(es): (1) Kevin Riedl, continued; (2) Daniel Lowery. Court was then adjourned until June 17, 2015 at 8:00 a.m.

The trial continued on June 17, 2015. Plaintiff called the following witness(es): (2) Daniel Lowery; and (3) Paul Killingsworth. Court was then adjourned until June 18, 2015 at 8:00 a.m.

The trial continued on June 18, 2015. Plaintiff called the following witness(es): (3) Paul Killingsworth, continued; (4) Ed Neveux; and (5) UDI Ziv (Video Deposition). Court was then adjourned until June 19, 2015 at 8:00 a.m.

The trial continued on June 19, 2015. Plaintiff called the following witness(es): (5) UDI Ziv, continued; (6) Jon Woodrum (Video Deposition); and (7) Jaime Clarke. Court was then adjourned until June 22, 2015 at 8:00 a.m.

The trial continued on June 22, 2015. Plaintiff called the following witness(es): (8) Dale Van Leeuwen (live video transmission). Court was then adjourned until June 23, 2015 at 8:00 a.m.

The trial continued on June 23, 2015. Plaintiff called the following witness(es): (9) Geoffrey Ashley (live video transmission); (10) Helmuth Guembel; and (11) Otto Reidl. Court was then adjourned until June 24, 2015 at 8:00 a.m.

The trial continued on June 24, 2015. Plaintiff called the following witness(es): (11) Otto

Riedl, continued. Court was then adjourned until June 25, 2015 at 8:00 a.m.

The trial continued on June 25, 2015. Plaintiff called the following witness(es): (11) Otto Riedl, continued. Plaintiff rests. The Parties agree that Court may reserve ruling on Defendant's Motion pursuant to Fed. R. Civ. P. 50 without any party giving up any rights. The Defendants called the following witness(es): (1) Penelope Vitantonio; (2) Daniel F. Kraus. Court was adjourned until June 26, 2015 at 8:00 a.m.

The trial continued on June 26, 2015. Counsel present arguments related to damages out of the presence of the Jury and will submit briefs on issues. Original Juror #8 excused due to hardship at school. The Defendants called the following witness(es): (3) Ralf Mehnert-Meland; and (4) Joseph Guagenti. Court was then adjourned until June 29, 2015 at 8:00 a.m.

The trial continued on June 29, 2015. Defendants called the following witness(es): (5) Brooks Hilliard; and (6) Geoffrey Osborne. Court was then adjourned until June 30, 2015 at 8:00 a.m.

The trial continued on June 30, 2015. Defendants called the following witness(es): (6) Geoffrey Osborne, continued. Defendants rest. Plaintiff calls the following witness in rebuttal: (1) Joseph Vislosky; (2) Otto Riedl. Plaintiff rests. The Defendants call the following witness in sur-rebuttal: (1) Geoffrey Osborne. Defense rests. Plaintiff proffers testimony of G. William Kennedy, Ph.D. The Defendants' Motion pursuant to Fed. R. Civ. P. 50 is GRANTED as to Count 3 breach of contract and Count 5 negligent misrepresentation. Counts 1 and 2 for fraud in the inducement and fraud are combined. Count 4 for negligence was previously dismissed. Court was then adjourned until July 1, 2015 at 8:00 a.m.

The trial continued on July 1, 2015. Court instructs Jury on law. Final arguments of

counsel are made. Court was adjourned until July 2, 2015 at 8:00 a.m.

The trial continued on July 2, 2015. Final arguments of counsel are completed. The Court gives final instructions to the Jury and the Jury thereafter retired to deliberate. The Jury, in open court, with all counsel present, returned the following unanimous Verdict:

VERDICT

Do you find by clear and convincing evidence in favor of Plaintiff on Plaintiff's claim of Fraud in the Inducement?

"NO" _____ (Enter "Yes" or "No", in ink, according to your findings)

The Court read the Verdict in open court, and thereafter, polled the Jury. Each Juror affirmatively responded to the correctness of the Verdict. The Court accepted the Verdict and the Jury was discharged. Court was adjourned.

THEREFORE, the Court enters Judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure, in favor of Defendants SAP America and SAP AG and against Plaintiff on Plaintiff's First Amended Complaint. All costs to Plaintiff.

IT IS SO ORDERED.

/s/Donald C. Nugent _____
DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE

DATE: July 8, 2014